



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

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Suite 300  
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**FEB 19 2009**

**RE: MUR 5908**  
**Peace Through Strength PAC**  
**and Meredith G. Kelley, as Treasurer**

**Dear Mr. Canfield:**

On March 19, 2007, the Federal Election Commission notified your client, Peace Through Strength PAC and Meredith G. Kelley, in his official capacity as Treasurer (the "Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on January 28, 2009, found that there is reason to believe the Committee violated 2 U.S.C. § 441a and 11 C.F.R. § 110.2(b)(1) of the Act. After considering the circumstances of this matter, the Commission also determined to take no further action as to alleged violation of 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(b) and 104.9(a). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Your client may submit any factual or legal materials that it believes are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If your client is interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

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Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless your client notifies the Commission in writing that it wishes the matter to be made public.

If you have any questions, please contact me at (202) 694-1650.

Regards,



Camilla Jackson Jones  
Attorney

Enclosures  
Factual and Legal Analysis

cc: Peace Through Strength PAC  
and Meredith G. Kelley, as Treasurer

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# **FEDERAL ELECTION COMMISSION**

## **FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Peace Through Strength  
Political Action Committee and  
Meredith G. Kelley, in her official  
capacity as Treasurer

**MUR: 5908**

### **I. INTRODUCTION**

The complaint in this matter involved allegations that Duncan Hunter and his Leadership PAC, Peace Through Strength Political Action Committee ("PTS PAC"), violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("the Act") in connection with PTS PAC's activities in support of Hunter's 2008 Presidential campaign. Specifically, Complainant alleged that: (1) PTS PAC expended more than \$5,000 to publicize Hunter's intention to run for President and, therefore, should have registered as Hunter's principal campaign committee; (2) once Hunter officially became a candidate and registered a principal campaign committee, PTS PAC made excessive in-kind contributions to Hunter for President, Inc. ("Hunter for President"); and (3) PTS PAC failed to report disbursements for television advertisements aired in Iowa and New Hampshire in December of 2006.

### **II. FACTS**

Duncan Hunter, then a member of Congress from California's 52nd Congressional District, was a candidate for the 2008 Republican Presidential nomination. Hunter's campaign website indicates that his candidacy focused on the issues of "border enforcement," the "war on terror," and "fair trade." See [www.gohunter08.com](http://www.gohunter08.com).

Hunter registered his Presidential exploratory committee with the Commission on January 8, 2007, filed his Statement of Candidacy on January 23, 2007, and registered his

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principal campaign committee for his Presidential campaign, Hunter for President, with the Commission on January 25, 2007. Various news reports, however, indicate that Hunter was publicly speaking about his bid for the Presidency as early as October 2006. Other news reports also indicate that Hunter was traveling to early primary states in support of his bid for the Presidency as early as October 2006 through January 23, 2007, the date he filed his Statement of Candidacy with the Commission.<sup>1</sup> Although it appears that Hunter was "testing the waters" for a Presidential bid, or perhaps, had already become a candidate under the Act from October 2006 through January 2007 (when he registered his principal campaign committee), Hunter for President did not report any contributions received or expenditures made by Hunter.

PTS PAC is a nonconnected, multi-candidate political committee that registered with the Commission in 2002. Duncan Hunter is the honorary chairman of PTS PAC, which appears to function as his Leadership PAC. PTS PAC also focuses on defense, border security, and trade issues. See PTS PAC Response. During approximately the last quarter of 2006, PTS PAC raised \$150,422 and spent \$101,148. PTS PAC made \$90,570.26 in disbursements in South Carolina, New Hampshire, and Iowa – the states Hunter reportedly traveled to in support of his Presidential bid – from October 2006 through January 25, 2007.

At the end of 2006 and into early 2007, PTS PAC ran the three different television ads specifically mentioned in the complaint.<sup>2</sup> In each of the three ads, Duncan Hunter introduces

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<sup>1</sup> He reportedly traveled to states such as South Carolina, New Hampshire, and Iowa. See John Van Doorn, Duncan Hunter's hard road ahead, North County Times, Dec. 6, 2006, at [www.nctimes.com](http://www.nctimes.com); Jason Spencer, 2008 Presidential Candidate Comes to Town, GoUpstate.com, Dec. 11, 2006, at [www.goupstate.com](http://www.goupstate.com); Associated Press, In Iowa, Hunter Touts Strong Defense, The Des Moines Register, Dec. 16, 2006, at [www.desmoinesregister.com](http://www.desmoinesregister.com); James Pindell, Hunter to visit N.H. for first time since announcing presidential ambitions, The Boston Globe, Jan. 5, 2007, at [www.boston.com](http://www.boston.com).

<sup>2</sup> The advertisements may be viewed at [www.peacethroughstrengthpac.com](http://www.peacethroughstrengthpac.com).

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himself, without reference to his status as a candidate, and then proceeds to discuss either immigration or trade with China. See Attachment 1 (Scripts for Commercials). PTS PAC reported disbursements for media buys in South Dakota and South Carolina, which appear to have been made to purchase air time to run these ads.<sup>3</sup> According to the complaint, PTS PAC also reportedly ran ads in Iowa and New Hampshire, although they did not report any disbursements for media buys in those states for December 2006. However, PTS PAC did report disbursements to television stations in Iowa and New Hampshire in its Mid-Year 2007 report.<sup>4</sup>

### III. ANALYSIS

#### A. Hunter's Travel

The available information appears to show that Hunter traveled extensively to publicize his Presidential campaign during the more than three months before he filed his Statement of Candidacy. It appears that Hunter was traveling to early primary states to publicize his Presidential campaign, and/or gauge support for his campaign, during the October 2006 through January 2007 period. In one trip to South Carolina, Hunter attended a reception "orchestrated by [the] Spartanburg County Republican Party Chairman" where he apparently discussed what his goals would be as president. Jason Spencer, 2008 Presidential Candidate Comes to Town, GoUpstate.com, Dec. 11, 2006, at [www.goupstate.com](http://www.goupstate.com). According to the news article, Hunter paid for the reception, and told attendees "I'm just asking me [sic] to keep you [sic] on your radar, because I'm going to be running." *Id.* (emphasis added). Hunter also told attendees: "I

<sup>3</sup> The disbursements were reported as being made to various television stations in both states and described as "PAC media advertisements" or "PAC media services." Various news reports seem to indicate that those were the only ads being run by the PAC at the time.

<sup>4</sup> PTS PAC reported two disbursements made on January 19, 2007, one to a television station in Iowa and one to a television station in New Hampshire, for "PAC media advertisements."

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have the conservative ideas which are worth more than money, with respect to national defense, my border fence and the two-way street on trade. That's a message that will resonate with South Carolina, and gives me an excellent chance to win." *Id.* (emphasis added). Another article talked about Hunter's first visit to Iowa in December 2006, reporting that he attended a pancake breakfast and a pheasant hunt and discussed his presidential campaign. Associated Press, In Iowa, Hunter Touts Strong Defense, The Des Moines Register, Dec. 16, 2006, at [www.desmoinesregister.com](http://www.desmoinesregister.com). Hunter also traveled to New Hampshire prior to filing his Statement of Candidacy. One article about his New Hampshire trip stated that during that trip Hunter "called himself the most conservative Republican in the Presidential sweepstakes. That, he said, 'gives me a chance,' despite his low name recognition." John DiStaso, California rep touts conservative appeal, The Manchester Union Leader, Jan. 9, 2007, at [www.unionleader.com](http://www.unionleader.com).

Neither Hunter nor his principal campaign committee reported any contributions received or expenditures made during that period despite the fact that Hunter apparently traveled to multiple states, including Iowa, New Hampshire, and South Carolina, talking about or promoting his Presidential campaign. PTS PAC, however, reported \$20,185.26 in expenditures for food and beverage and "media services" in South Carolina in December 2006. According to news reports, Hunter was in South Carolina probably at least twice during the month of December. See John Van Doorn, Duncan Hunter's hard road ahead, North County Times, Dec. 5, 2006, at [www.nctimes.com](http://www.nctimes.com); Jason Spencer, 2008 Presidential Candidate Comes to Town, GoUpstate.com, Dec. 11, 2006, at [www.goupstate.com](http://www.goupstate.com).

Therefore, the Commission finds reason to believe that Peace Through Strength Political Action Committee and Meredith G. Kelley, in her official capacity as Treasurer, violated 2 U.S.C. § 441a and 11 C.F.R. § 110.2(b)(1) by making excessive in-kind contributions to Duncan Hunter for his Presidential campaign.

**B. Television Advertisements**

Complainant alleges that PTS PAC ran three television advertisements "designed to publicize Rep. Hunter's intention to campaign for federal office by introducing him to early primary voters" in South Dakota, South Carolina, Iowa, New Hampshire, and North Carolina. Complaint at ¶ 30. The response to the complaint provided scripts of the advertisements described in the complaint. Attachment 1. A review of these ads reveals that although Hunter is identified (both by being the pictured speaker in the ad and stating either "I'm Duncan Hunter" or "I'm Congressman Duncan Hunter"), there is no mention of Hunter as a current candidate for federal office or of any election. Each ad focuses on an issue similar to the issues highlighted in Hunter's presidential campaign platform (border security or trade with China), but they are the issues on which PTS PAC appears to have focused since its inception. Therefore, they are the type of ads Hunter would be expected to do for PTS PAC even if he was not running for President. Although the ads were run in many of the states Hunter appears to have traveled to in order to publicize and promote his Presidential campaign, apparently in somewhat close proximity to Hunter being in the state, we cannot conclude that the ads were for the purpose of influencing a federal election.<sup>5</sup>

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<sup>5</sup> In paragraph 20 of the factual section of the complaint, Complainant claims (based on a news article attached as Exhibit H to the complaint) that "at the time WMUR aired the border fence advertisement in February 2007, PTS PAC's website directed readers to 'please visit Duncan Hunter for President 2008,' and provided a direct hyperlink

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The complaint also alleges that PTS PAC violated the Act by failing to report expenditures made for television advertisements aired in Iowa and New Hampshire in December of 2006. It appears that the content of these ads is the same as the three ads discussed above and in the complaint. According to news reports, PTS PAC began airing a television ad on border control in Iowa, New Hampshire, and South Carolina on December 19, 2006. See Jessica Holzer, The 2008 ad blitz begins, The Hill, March 1, 2007, at [www.thehill.com](http://www.thehill.com). Although PTS PAC reported expenditures to television stations in South Carolina on its 2006 Year-End Report, it did not report expenditures made to Iowa and New Hampshire television stations until January 19, 2007 in its 2007 Mid-Year Report.<sup>6</sup> Therefore, it appears that PTS PAC reported payments for advertisements aired in Iowa and New Hampshire.

However, since the descriptions of the disbursements in the PAC's disclosure reports are not detailed enough to conclusively prove that these disbursements were for the ads at issue in the complaint, the Commission has determined to take no action at this time with regard to the allegation that Peace Through Strength Political Action Committee and Meredith G. Kelley, in her official capacity as Treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(b) and 104.9(a) by failing to report disbursements for television advertisements in Iowa and New Hampshire in December of 2006. If the Commission uncovers any additional information which

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to Hunter for President's website, [www.gohunter08.com](http://www.gohunter08.com). ... PTS PAC has since removed the message and hyperlink from its website." Aside from Complainant's allegation relying solely on the one news article, the Commission has no information regarding the presence of the hyperlink on PTS PAC's website. If, during the course of the investigation, the Commission discovers any evidence indicating that the hyperlink was on PTS PAC's website for a substantial amount of time or was coordinated with the candidate, it will take the appropriate action at that time.

<sup>6</sup> PTS PAC reported a January 19, 2007 disbursement in the amount of \$5,130 to KCCI-TV in Iowa for "PAC media advertisement." PTS PAC also reported a January 19, 2007 disbursement in the amount of \$5,000 to WMUR-TV in New Hampshire for "PAC media advertisement."

**suggests that the disbursements reported on the 2006 Year-End or 2007 Mid-Year reports are not**  
**connected to the ads at issue here, it will take the appropriate action at that time.**

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